



**TRACY WINKLER
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
June 4, 2014 08:43 AM
TRACY WINKLER
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 338061**

**CATHY BEIL
vs.
ABUBAKAR ATIQ DURRANI**

**A 1302781
JUDGE
RALPH E WINKLER**

**FILING TYPE: MOTION
PAGES FILED: 51**

EFR200

Exhibit A

**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO
CIVIL DIVISION**

CATHY BEIL, et al.	:	Case No. A1302781
Plaintiffs,	:	Judge Ralph Winkler
vs.	:	
	:	
ABUBAKAR ATIQ DURRANI,	:	
M.D., et al.	:	
	:	
Defendants.	:	

PLAINTIFF'S MOTION UNDER CR 37

Plaintiffs pursuant to CR 37 request all relief available under CR 37.

Plaintiff properly noticed the deposition of Dr. Durrani as reflected in Exhibit 8 under the Index of Exhibits to this Motion. Dr. Durrani failed to cooperate or appear after receiving the Notice of the Deposition.

As reflected in Exhibit 11, a letter from Dr. Durrani's counsel advised us that he will not be available for the deposition.

Plaintiff's counsel wants to stress Dr. Durrani and CAST are parties to this action. They were properly served and before the Court. Dr. Durrani and CAST's legal counsel have fully participated in this case including discovery and fully defending the claim with experts.

Not only is Dr. Durrani a fugitive of justice, but he's been allowed to defend the claim while not submitting to a deposition.

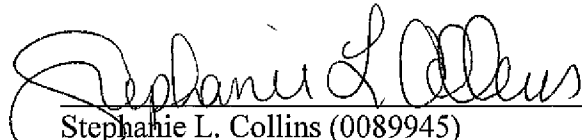
If ever there is a case and circumstances requiring the harshest sanctions under CR 37, this and all companion cases are it.

Based upon the facts detailed herein including the Exhibits, particularly Exhibit 1 which is a summary, Plaintiff under CR37 (b)(2) and 37(d)(i)(iii), move as follows:

1. Dr. Durrani under CR 37(d)(i) failed to appear for his deposition.
2. Under CR 37(d)(iii), Plaintiff requests all relief under CR37(2) (a) (b) and (c).
3. Plaintiff requests the following facts be established:
 - A. Dr. Durrani was negligent in his care and treatment of Plaintiff.
 - B. Dr. Durrani committed battery upon Plaintiff.
 - C. Dr. Durrani failed to inform Plaintiff of the risks and complications of his treatment and surgeries.
 - D. Dr. Durrani fraudulently misrepresented and fraudulently concealed material facts to Plaintiff which Plaintiff relied upon to his detriment.
 - E. Based upon A-D, these facts were the proximate cause of damages to Plaintiff.
4. All defenses and pleadings of Defendants Dr. Durrani and CAST are stricken and they are not permitted to present any evidence at the trial of any issue in this case.
5. Plaintiff requests a default judgment on liability, causation and damages on all claims against Dr. Durrani and CAST.

To allow Dr. Durrani to flee, ignore a deposition notice, and yet fully defend the case is unjust, unfair and unacceptable.

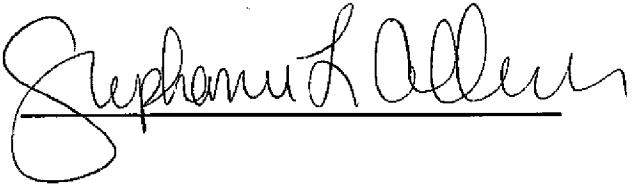
Respectfully submitted,



Stephanie L. Collins (0089945)
5247 Madison Pike
Independence, KY 41051
859-363-1900 - telephone
859-363-1444 - facsimile

CERTIFICATE OF SERVICE

I hereby certified that a true and accurate copy of the foregoing was served by electronic mail this 4th day of June 2014, to all counsel of record:



Index of Exhibits

1. May 21, 2013 Letter Cancelling Dr. Durrani Deposition on Representation of Durrani Counsel
2. January 22, 2014 Email Requesting Dr. Durrani Deposition
3. February 3, 2014 Letter from Paul McCartney
4. May 7, 2014 Emails
5. May 13, 2014 Letter (Collins)
6. May 13, 2014 Letter (Lyon)
7. May 21, 2014 Letter (Brockman)
8. Notice of Depositions: Butler County- Nichols, Hamilton County- Feltner
9. Previously Filed Amended Motion to Compel
10. Order Overruling the Motion to Compel
11. May 30, 2014 Letter (Lyon)

1. May 21, 2013 Letter Cancelling
Dr. Durrani Deposition on
Representation of Durrani Counsel

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Christopher D. Roach
Brian M. Cable

Diana E. Hunt
K. Joshua Waters
Russell T. Elliott
Meghan E. Kane
Benjamin T. Rigg

Kim Moore (Nurse)
Ginger Dietrich (Nurse)
Bonnie Cook (Nurse)

Chad Fuller (Investigator)
Chad Fuller (Investigator)
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Kelly Matt (Paralegal)
Shelly Bagby (Employment Paralegal)
Mona Eldridge (Personal Injury Paralegal)
Erika Morthland (Paralegal)
Trisha Morley (In-house Court Reporter)

Reply To:
May 21, 2013

Hon. Walter Haggerty
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kcarroll@rendigs.com
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Paul McCartney
Fax 513-381-9206

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davidbrittingham@dinsmore.com

Mike Lyon
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Mlyon@lindhorstlaw.com

James Brockman
Fax: (513) 421-0212

RE: Dr. Durrani's Deposition (Attached Notices of Depositions)

Counselors:

On January 22, we requested Dr. Durrani's deposition (attached).

On February 3, Paul McCartney responded with "he is unable to give a deposition at the present time in this case or in any other case (attached).

We filed a Motion to Compel based upon that above representation and representations made in discovery answers and pleadings by James Brockman that "efforts to communicate with have been fruitless."

We have supplied you Dr. Durrani's home address, home phone number, work address, work phone number, his cell number and his email addresses where he still communicated as of March to at least one patient.

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513.729.1999 • Fax: 513.381.4084

Judge Guckenberger overruled our Motion to Compel solely on the basis that a Notice of Deposition wasn't noticed.

We noticed Dr. Durrani's deposition for tomorrow and Friday (attached).

On May 7, 2014, Paul McCartney and I exchanged emails (attached) where the pledge to let us know in "advance of the depositions as to whether Dr. Durrani will appear or not to avoid the costs associated with showing up and then not having Dr. Durrani appears."

On May 13, 2014, we received the attached letter claiming you notified Dr. Durrani of his deposition, but as of May 13, 2014 you had not received any word from him.

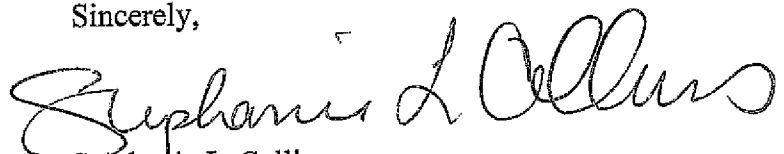
Yesterday, May 20, 2014, we asked for an update. This morning I received the attached email from Jim Brockman.

Based upon everything outlined in this letter and the attachments, and the circumstances to the logistics involved in this deposition, we have no intention of wasting our time and money with the phone connection and court reporter arrangements we made to conduct this deposition. It wasn't easy.

Therefore, the depositions Thursday and Friday are canceled solely based upon what I outlined here.

It's our position and will be our position, we have complied under CR 37 with noticing his deposition.

Sincerely,



Stephanie L. Collins

SLC/sj

2. January 22, 2014 Email Requesting Dr. Durrani Deposition

Sarah Jones

From: Eric Deters
Sent: Wednesday, January 22, 2014 1:38 PM
To: Loretta Little; David Williamson; mlyon@lindhorstlaw.com; James Brockman; Imccluskey@lindhorstlaw.com; bmcpeek@lindhorstlaw.com; bpaliobeis@fbtlaw.com; whaggerty@fbtlaw.com; Angelina Jackson; David Brittingham; Karen A. Carroll; jhines@rendigs.com; mmcpeek@rendigs.com; Marilena Walters; Michael Crites; Arthur E. Phelps; Jessica Pratt; Paul W. McCartney; Gabe Joseph; lhillerich@rendigs.com; Rick L. Weil; Debra Nelson; Maryjo.pullen@dinsmore.com; Melissa.korfhage@dinsmore.com; Guy C. Guckenberger
Cc: Josh Waters; Steve Kilburn; Sarah Jones; Kimberly Moore; Debra Nelson; Chuck Holbrook; Chad Fuller; Ginger Dietrich; Bonnie Cook
Subject: Dr. Durrani Contact Information- Deposition Request
Attachments: Dr. Durrani Contact Information.pdf

Dr. Durrani is at the Doctor's Hospital in Lahore, Pakistan. He's the Chief Spine Surgeon there performing surgeries and seeing patients. I attach the address and phone number. He also communicated from Pakistan by phone with Mike Lyon. He has a number for him too. This letter is to request his deposition on the Cory Wright case and all cases in the order they are scheduled for trial. We will do the deposition by phone and/or video.

3. February 3, 2014 Letter from Paul McCartney

Rendigs

ATTORNEYS AT LAW

Rendigs, Fry, Kiely & Dennis, LLP
Cincinnati Cleveland Dayton

600 Vine Street, Suite 2650
Cincinnati, Ohio 45202

February 3, 2014

Eric C. Deters, Esq.
Eric C. Deters & Partners, PSC
5247 Madison Pike
Independence, KY 41051

Re: *Julie Wright, Individ., James Wright, Individ., and Their Son, Cory Wright v. Abubakar
Atiq Durrani, M.D., et al.*
RFK&D Ref: 10963-4

Dear Mr. Deters:

This is in response to your letter of January 22, 2014 requesting the deposition of Dr. Durrani. Dr. Durrani has indicated that he is unable to give a deposition at the present time in this case or in any other case.

Please let me know if you have any questions.

Very truly yours,

RENDIGS, FRY, KIELY & DENNIS, L.L.P.

/s/ Paul W. McCartney

Paul W. McCartney

PWM/jsz

c: J. David Brittingham, Esq.

1190116.1

Paul W. McCartney, Esq.
(513) 381-9234
pmccartney@rendigs.com
Admitted to Practice in Ohio

4. May 7, 2014 Emails

From: McCartney, Paul W. [pmccartney@rendigs.com]
Sent: Wednesday, May 07, 2014 3:11 PM
To: Stephanie Collins
Cc: Debra Nelson; 'aep'; mlyon@lindhorstlaw.com; James Brockman
Subject: RE: Durrani Deposition in Romer and Feltner

Dear Stephanie:

You are not entitled to know how or if we have communicated to Dr. Durrani about the notices. As we pledged to do, we will let you know in advance of the depositions as to whether Dr. Durrani will appear or not to avoid the costs associated with showing up and then not having Dr. Durrani appear. These depositions are still two plus weeks away and we will let you know as soon as possible.

Paul

From: Stephanie Collins [mailto:scollins@ericdeters.com]
Sent: Wednesday, May 07, 2014 12:29 PM
To: McCartney, Paul W.; mlyon@lindhorstlaw.com; James Brockman
Cc: Debra Nelson
Subject: Durrani Deposition in Romer and Feltner

Please advise whether you have informed Dr. Durrani of the depositions noticed in Jason Romer and Jacob Feltner and whether or not he will attend.

Thanks,

Stephanie L. Collins
Attorney at Law
5247 Madison Pike
Independence, KY 41051
859-363-1900
fax: 859-363-1444

<mailto:scollins@ericdeters.com>

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<https://mail.ericdeters.com/OWA/?ae=Item&t=IPM.Note&id=RgAAAAA9ZxOROBaDTbb...> 5/9/2014

5. May 13, 2014 Letter (Collins)

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Alexa Kavanaugh (Paralegal)
Kelly Matt (Paralegal)
Shelly Bagby (Employment Paralegal)
Mona Eldridge (Personal Injury Paralegal)
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Trisha Morley (In-house Court Reporter)

Reply To:

May 13, 2014

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Laurie McCluskey, Esq.
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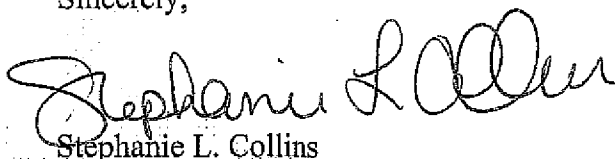
Paul McCartney, Esq.
Jessica Pratt, Esq.
Arthur Phelps, Jr., Esq.
Rendigs Fry Kiely & Dennis, LLP
600 Vine St., Suite 2650
Cincinnati, OH 45202

Counselors:

Mike told me last week he would respond Monday about Dr. Durrani's deposition. I also received an email from Paul which failed to answer the simple question: is Dr. Durrani going to attend his telephonic deposition or not and where does he want to do it from if he does.

If we do not have an answer by Thursday, we will assume he's attending as noticed and will spend the money we have to take it as planned. If he doesn't show up, we will seek all sanctions permitted and the fees. You are acting as if we are being difficult when a simple yes or no whether a party is appearing for their deposition is all we are asking.

Sincerely,



Stephanie L. Collins

/sj

Copy: Debra Nelson

Charles Deters
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6. May 13, 2014 Letter (Lyon)

LINDHORST & DREIDAME

A LEGAL PROFESSIONAL ASSOCIATION

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JAMES H. SMITH III
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AMBROSE H. LINDHORST 1913-1997
ROBERT F. DREIDAME 1914-1978
WILLIAM J. WALSH 1919-1996
LEO J. BRESLIN 1928-2000

(1) ALSO ADMITTED IN KENTUCKY

May 13, 2014

Stephanie Collins, Esq.
Eric C. Deters & Associates
5247 Madison Avenue
Independence, KY 41051-7941

RE: Notice of Deposition of Dr. Durrani

Dear Ms. Collins:

As requested, we have notified Dr. Durrani of his deposition that you recently noticed.

As of May 13, 2014 we have not received any word from Dr. Durrani regarding the deposition.

I trust this satisfies your inquiries and if you have any questions or comments, please don't hesitate to contact us.

Very truly yours,

LINDHORST & DREIDAME

/s/ *Michael F. Lyon*

Michael F. Lyon

MFL/amw

cc: All counsel of record

7. May 21, 2014 Letter (Brockman)

To: Stephanie Collins

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the Internal Revenue Service, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code of 1986, as amended, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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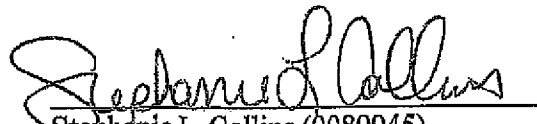
8. Notice of Depositions: Butler
County- Nichols, Hamilton
County- Feltner

**COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO**

TERESA NICHOLS	:	Case No. CV 2013 04 1128
	:	
Plaintiff,	:	Judge Guckenberger
	:	
v.	:	
	:	
ABUBAKAR ATIQ DURRANI, M.D. et	:	
al.,	:	NOTICE OF DEPOSITION
	:	
Defendants	:	
	:	
	:	
	:	

The Plaintiff, by and through counsel, pursuant to the Ohio Rules of Civil Procedure, will take the deposition of Abubakar Atiq Durrani, M.D. on Thursday, May 22, 2014 at 4:00 p.m. (PKT) (7:00 a.m. EST) at our Cincinnati office located at 635 W. Seventh Street, Suite 401, Cincinnati, Ohio 45203, before a court reporter duly authorized to administer an oath, the deposition to continue until complete and will be taken by telephone. **For emphasis, this is 7:00 a.m. EST on Thursday, May 22, 2014. It will be 4:00 p.m. PKT at that time.** Dr. Durrani is requested to be at the Doctor's Hospital at Lahore, Pakistan.

Respectfully submitted,


Stephanie L. Collins (0089945)
5247 Madison Pike
Independence, KY 41051
859-363-1900 - telephone
859-363-1444 - facsimile

CERTIFICATE OF SERVICE

I hereby certified that a true and accurate copy of the foregoing was served by electronic mail this ~~30~~ day of April 2014, to:

30 April

Mike F. Lyon, Esq.
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312 Walnut St., Suite 3100
Cincinnati, OH 45202

Paul McCartney
Karen A. Carroll
Jeffrey Hines
Rendigs Fry Kiely & Dennis LLP
600 Vine Street, Suite 2650
Cincinnati, OH 45202

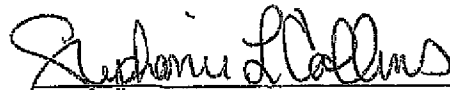
Stephanie L. Collins

**COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

WILLIAM and DONNA FELTNER	:	Case No. A1301232
Individually and as Best Friend of their	:	
Minor Child, JACOB FELTNER	:	Judge Robert P. Ruehlman
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	NOTICE OF DEPOSITION
ABUBAKAR ATIQ DURRANI, M.D. et.	:	
al,	:	
	:	
Defendants	:	

The Plaintiff, by and through counsel, pursuant to the Ohio Rules of Civil Procedure, will take the deposition of Abubakar Atiq Durrani, M.D. on Friday, May 23, 2014 at 4:00 p.m. (PKT) (7:00 a.m. EST) at our Cincinnati office located at 635 W. Seventh Street, Suite 401, Cincinnati, Ohio 45203, before a court reporter duly authorized to administer an oath, the deposition to continue until complete and will be taken by telephone. For emphasis, this is 7:00 a.m. EST on Friday, May 23, 2014. It will be 4:00 p.m. PKT at that time. Dr. Durrani is requested to be at the Doctor's Hospital at Lahore, Pakistan.

Respectfully submitted,



Stephanie L. Collins (0089945)
5247 Madison Pike
Independence, KY 41051
859-363-1900 - telephone
859-363-1444 - facsimile

CERTIFICATE OF SERVICE

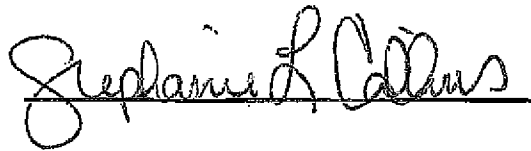
I hereby certified that a true and accurate copy of the foregoing was served by electronic mail this ~~30th~~ day of April 2014, to:

~~30th~~
April

J. David Brittingham
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600 Vine Street, Suite 2650
Cincinnati, OH 45202



9. Previously Filed Amended Motion to Compel

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO
CIVIL DIVISION

Plaintiffs,
As Listed in Exhibit A,

FILED BUTLER CO.
COURT OF COMMON PLEAS

Case No. See Exhibit A

Plaintiffs,

APR 07 2014

Judge Guckenberger

-vs-

MARY L. SWAIN
CLERK OF COURTS

Abubakar Atiq Durrani, M.D. et al.,

Defendants.

**AMENDED MOTION TO COMPEL DR. DURRANI TO A DEPOSITION AND/OR
SANCTIONS UNDER CIVIL RULE 37**

Dr. Durrani and his legal counsel are feigning Dr. Durrani's unavailability and lack of cooperation. Dr. Durrani is practicing medicine at Doctor's Hospital in Lahore, Pakistan (Attached Exhibit 1). We requested his deposition (Attached Exhibit 2). His counsel responded he was not available (Attached Exhibit 3). We insisted on proof (Attached Exhibit 4). There has not been any response.

Meanwhile, as reflected by the attached, Dr. Durrani not only stays in contact with American patients, he's still directing their treatment (Exhibit 5).

Dr. Durrani's legal counsel in answering discovery states: "Recent efforts to communicate with him have been fruitless." (Exhibit 6). It is a complete and total farce.

This is relevant for several reasons:

1. Counsel for Dr. Durrani should be compelled to produce Dr. Durrani for deposition by videoconferencing or by phone.

2. If Dr. Durrani does not provide a deposition in a case, that fact should be permitted to be told to the jury in the case and Plaintiffs seek the sanctions allowed under Civil Rule 37.
3. If Dr. Durrani does or does not provide a deposition and the reason he does or does not, is relevant on the issue of Medical Protective's attempt to avoid coverage on claims.

The Plaintiffs are entitled to the truth from Dr. Durrani's counsel and a deposition from Dr. Durrani in each case if we so choose.

Technology available in 2014 makes the fact Dr. Durrani in Pakistan no excuse to not be deposed. In fact, Dr. Durrani knowing he is safe from prosecution in Pakistan would increase the likelihood he would choose to defend his conduct as he has in all cases if he was truly asked to provide a teleconferenced deposition.

Requiring Dr. Durrani counsel to produce proof they even asked Dr. Durrani is not attorney client privileged or protected work product. It's a deposition request. If the Court believes it is, the Court could make an in camera inspection of what they claim they sent.

It's Plaintiffs position, they either did not ask or intentionally directed him not to do a deposition. However, for purposes of Civil Rule 37, it makes no difference:

1. Dr. Durrani and CAST are parties.
2. A deposition has been requested.
3. Dr. Durrani's counsel has represented Dr. Durrani won't give a deposition.

Plaintiffs seek the sanctions under 37(b)(2)(a). It appears from the case law it does not even require a Motion. If this requires an Order first, we ask for an Order for Dr. Durrani to submit to a deposition as requested. If he refuses or if the Court, based upon his counsel's representations considers an Order unnecessary, we would like to draft what "designated" facts be taken as established, we would ask Dr. Durrani's defenses be prohibited, we would ask he not

be permitted to call an expert, his pleadings be stricken, and a finding he's in contempt in each Butler County case. Other than the Brenda Shell, Dr. Durrani has not given a deposition in any of these cases.

Based upon Dr. Durrani's legal counsel's representations a Notice and Court Order would be futile. Dr. Durrani's legal counsel has stated: He's not available to be deposed.

Settle v. Thurber Manor Apartments, 10th Dist. Franklin No. 98AP-608, 1999 WL 352990, at *4 (May 11, 1999):

"[T]he type of discovery violations found by the trial court to be willful and in bad faith are those requiring a violation of an order compelling discovery before sanctions can be imposed under Civ.R. 37. In Dafco Inc. v. Reynolds (1983), 9 Ohio App.3d 4, 457 N.E.2d 916, this court addressed the propriety of imposing discovery sanctions under Civ.R. 37. In particular, this court noted that under Civ.R. 37(D), a party who fails to appear at a properly noticed deposition or remains silent in the face of properly served written discovery requests is subject to immediate imposition of sanctions after motion and notice. *Id.* at 4-5, 457 N.E.2d 916."

Russo v. Goodyear Tire & Rubber Co., 9th Dist. Summit No. 12790, 36 Ohio App.3d 175, 178, 521 N.E.2d 1116 (1987): "It is exclusively within the trial court's discretion to determine the particular sanction to be imposed for the particular infraction committed. . . [T]he trial court must consider the posture of the case and what efforts, if any, preceded the noncompliance and then balance the severity of the violation against the degree of possible sanctions, selecting that sanction which is most appropriate.

In deciding, the trial court should look to several factors: the history of the case; all the facts and circumstances surrounding the noncompliance, including the number of opportunities and the length of time within which the faulting party had to comply with the discovery or the

order to comply; what efforts, if any, were made to comply; the ability or inability of the faulting party to comply; and such other factors as may be appropriate.” *See also Huntington Natl. Bank v. Zeune*, 10th Dist. No. 08AP-1020, 2009 WL 2100920 (July 16, 2009).

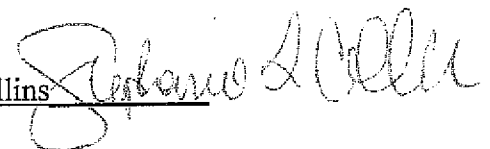
Coon v. Froehlich, 573 F.Supp. 918, 923 (S.D. Ohio 1983):

“The sanctions of Rule 37(d) may be imposed even in the absence of an order compelling discovery. *See* 4A Moore's Federal Practice, ¶ 37.05; 8 Wright & Miller Federal Practice and Procedure, § 2291.”

Based upon Dr. Durrani's counsel representations, the fact Dr. Durrani fled the country, the number of individuals effected by his conduct, the fact Dr. Durrani's carrier wants to benefit from his flight, we believe the strongest sanctions possible are warranted.

Plaintiff requests all relief they are entitled to under Civil Rule 37.

Respectfully Submitted,


/s/ Stephanie Collins
Stephanie Collins
Attorney for Plaintiff
5247 Madison Pike
Independence, KY 41051
859-363-1900 Fax: 859-363-1444
dnelson@ericdeters.com

CERTIFICATE OF SERVICE

I do hereby certify that a true and exact copy of the foregoing was sent electronically on this

3 day of April, 2014 to all counsel of record:

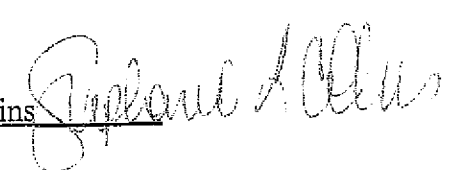

/s/ Stephanie Collins
Stephanie Collins

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2. Request for Dr. Durrani's Deposition
3. Claim Dr. Durrani Is Not Available
4. Second Request for Dr. Durrani Deposition
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6. Claims by Dr. Durrani Counsel "efforts to communicate with him have been fruitless."

Exhibit 1: Dr. Durrani's New Hospital In Lahore, Pakistan

1/16/2014

Doctors | Doctors Hospital | Doctors Hospital Pakistan

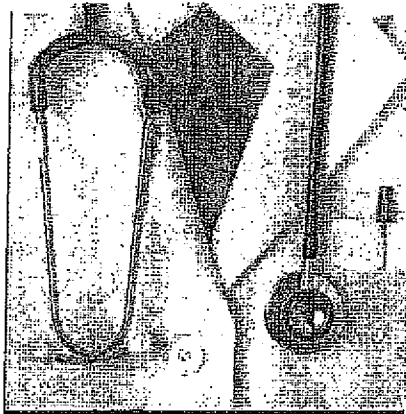


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92-42-35302701-14

Doctors



All of our senior doctors have decades of experience from many of the most respected medical institutions in the world and have the highest professional degrees in their specialties from the United States, United Kingdom, Ireland, and Pakistan.

With such an extensive professionally trained staff of doctors we are able to provide our patients the best health care in the country - at par with the top medical facilities around the world.

Our facility offers a full spectrum of specialties and medical technologies to help our patients receive optimal care.

Our staff spans across the full spectrum of medical specialties including:

Internal Medicine
 Pediatrics / Neonatology
 Pulmonary and Intensive / Critical Care
 Neurology
 Nephrology
 Endocrinology
 Cardiology - Invasive and non-invasive
 Cardiothoracic Surgery
 Cardiac Electrophysiology
 Orthopedics and Sports Medicine
 Urology
 Nephrology and Dialysis
 Ophthalmology
 Ear, Nose and Throat / Audiology
 Neurosurgery
 General and laparoscopic surgery
 Obstetrics and Gynecology
 Clinical Nutrition Consultancy
 Physical Rehabilitation

Our state of the art technologies allows us to offer the most modern treatment care via:

Complete Pathology Services
 Complete Diagnostic and Therapeutic Radiology
 Digital X-Rays
 3D/4D ultrasound
 Fluoroscopy
 64-slice CT Scanner
 Two Open-bore MRI machines
 Complete Nuclear Medicine - Diagnostic and Therapeutic
 Invasive Radiology
 Total body Angiography Complete - Diagnostic and Therapeutic
 Coronary Angiography / Angioplasty and Stent Placement

Consultant Name	Education	Special Interest	Specialty
Dr. Khurshid Khan	Diplomate of American Board in Diabetes & Endocrinology(USA) Diplomate of American Board in Internal Medicine(USA) Hospitalist Speciality Certification (USA)	Diabetes	Associate professor of Medicine / Endocrinology

1/16/2014

Doctors Doctors Hospital Doctors Hospital Pakistan			
Name (Last, First, Middle Initial)		Specialty	
Dr. A. Ali Durrani	M.D., Assistant Professor Orthopaedic Surgery Spine Specialist Clinical Dir., Musculoskeletal Tumor Centre Director, Center for Spinal Disorders	Spine Surgery	Orthopaedic Surgeon
Dr. Amir Mahmud Ijaz	MBBS, MS (Thoracic Surgery)	Thoracic Surgery	Thoracic Surgery
Dr. Abdul Majeed Chaudhry	MBBS, MRPE (Holland), FRCS (Glas), FRCS (Edin) FCPS (Pak)	Laparoscopic Surgery	General Surgeon
Dr. Abeer Mansoor	MD, F.A.C.P. Diplomate American Board of Internal Medicine & Nephrology	Nephrology	Nephrologist
Dr. Abu Bakar Siddiq	M.B.B.S., M.S. (Orthopaedic Surgery) Consultant Orthopaedic Surgeon Member American Association of Orthopaedic Surgeons	Orthopedic trauma	Orthopaedic Surgeon
Dr. Afsar Ali Bhatti	M.B.B.S., F.C.P.S. (Gen. Surgery)	Laparoscopic Surgery	Consultant Surgeon
Dr. Aftab Ahmed Choudhary	P.R.C.S. Professor of Surgery		Professor of Surgery (General Surgeon)
Dr. Ali Raza Khan	MBBS, Diplomate American Board of Thoracic Surgery, Diplomate American Board of Surgery	Video assisted Thoracic surgery	Thoracic Surgeon
Dr. Alia Bashir	MBBS, DGO, MCPS, FCPS.		Consultant Gynaecologist
Dr. Amer Ikram	Neurologist Diplomate American Board of Psychiatry & Neurology		Neurology
Dr. Amer Latif	MBBS, FRCS-1, DRCS-1, UEMS-EBIS		Hepatobiliary & Liver Transplant Surgeon
Dr. Anjum Habib Vohra	MBBS, FRCS Diploma in Microsurgery Professor of Neurosurgery		Neuro Surgeon
Dr. Anwaar A. Khan/Dr. Shahid Sarwar	M.D., M.A.C.P., F.A.C.G., F.R.C.P. (Edin) Diplomate American Board of Gastroenterology & Hepatology Diplomate American Board of Internal Medicine (Gastroenterology), Consultant Gastroenterologist, Hepatologist.		Consultant Gastroenterologist
Dr. Aqib Sohail	BDs, FCPS (OMS)		Consultant Oral and Maxillofacial Surgeon
Dr. Arif Hamayun Agha	MD, FRCS (Ed), FRCS (Eng.), Diplomate American Board of Urology		Consultant Urologist
Dr. Asim Mahmood	MBBS, FRCS (Surgery) The American Board (N. Surgery)		Neurosurgery
Dr. Atif Ikram	MBBS, MS (Audiology), Ph.D (Audiology)	Vertigo	Audiologist
Dr. Azma Hussain Shah	F.R.C.S (UK), F.A.C.S (USA) Consultant Urological & Kidney Transplant Surgeon		Urologist & Kidney Transplant Surgeon

Exhibit 2: Request for Dr. Durrani's Deposition

Sarah Jones

From: Eric Deters
Sent: Wednesday, January 22, 2014 1:38 PM
To: Loretta Little; David Williamson; mlyon@lindhorstlaw.com; James Brockman; lmccluskey@lindhorstlaw.com; bmcpeek@lindhorstlaw.com; bpaliobeis@fbtlaw.com; whaggerty@fbtlaw.com; Angelina Jackson; David Brittingham; Karen A. Carroll; jhines@rendigs.com; mmcpeek@rendigs.com; Marilena Walters; Michael Crites; Arthur E. Phelps; Jessica Pratt; Paul W. McCartney; Gabe Joseph; thillerich@rendigs.com; Rick L. Well; Debra Nelson; Maryjo.pullen@dinsmore.com; Melissa.korfhage@dinsmore.com; Guy C. Guckenberger
Cc: Josh Waters; Steve Kilburn; Sarah Jones; Kimberly Moore; Debra Nelson; Chuck Holbrook; Chad Fuller; Ginger Dietrich; Bonnie Cook
Subject: Dr. Durrani Contact Information- Deposition Request
Attachments: Dr. Durrani Contact Information.pdf

Dr. Durrani is at the Doctor's Hospital in Lahore, Pakistan. He's the Chief Spine Surgeon there performing surgeries and seeing patients. I attach the address and phone number. He also communicated from Pakistan by phone with Mike Lyon. He has a number for him too. This letter is to request his deposition on the Cory Wright case and all cases in the order they are scheduled for trial. We will do the deposition by phone and/or video.

Exhibit 3: Claim Dr. Durrani Is Not Available

Rendigs

ATTORNEYS AT LAW

WWW.RENDIGS.COM

Rendigs, Fry, Kiely & Dennis, LLP
Cincinnati Cleveland Dayton

600 Vine Street, Suite 2650
Cincinnati, Ohio 45202

February 3, 2014

Eric C. Deters, Esq.
Eric C. Deters & Partners, PSC
5247 Madison Pike
Independence, KY 41051

Re: *Julie Wright, Individ., James Wright, Individ., and Their Son, Cory Wright v. Abubakar
Atiq Durrani, M.D., et al.*
RFB&D Ref: 10963-4

Dear Mr. Deters:

This is in response to your letter of January 22, 2014 requesting the deposition of Dr. Durrani. Dr. Durrani has indicated that he is unable to give a deposition at the present time in this case or in any other case.

Please let me know if you have any questions.

Very truly yours,

RENDIGS, FRY, KIELY & DENNIS, L.L.P.

/s/ Paul W. McCartney

Paul W. McCartney

PWM/fjsz

c: J. David Brittingham, Esq.

1190116.1

Paul W. McCartney, Esq.
(513) 381-9234
pmccartney@rendigs.com
Admitted to Practice in Ohio

Exhibit 4: Second Request for Dr. Durrani Deposition

LAW OFFICE

Attorneys Licensed in
Kentucky, Ohio, West Virginia and Florida

Debra A. Nelson
Erin G. Rosen
Nancy H. Ludwig
Mark C. Eppley
Tina R. Edmondson
Edward A. Clark
Greg A. Temming
Ian A. Stegmaler
Stephanie L. Collins
Christopher D. Roach
Brian M. Cable

Diane E. Huff
K. Joshua Waters
Russell T. Elliott
C. Stephen M. Kilburn
Meghan E. Kane
Austin A. Cortez

Kim Moore (Nurse)
Ginger Districh (Nurse)
Bonnie Cook (Nurse)

Chuck Holbrook (Investigator)
Chad Fuller (Investigator)
Parker Deters (Investigator)
Doug Hunter (Worker's Comp Paralegal)
Alexa Kavanaugh (Paralegal)
Kelly Matt (Paralegal)
Shelly Bagby (Employment Paralegal)
Mona Eldridge (Personal Injury Paralegal)
Erika Morthland (Paralegal)
Trisha Morley (In-house Court Reporter)

Reply To:
February 5, 2014

Paul McCartney, Esq.
RENDIGS FRY KIELY & DENNIS
600 Vine Street, Suite 2650
Cincinnati, OH 45202

RE: Your February 3, 2014 Letter Regarding Dr. Durrani Deposition

Dear Mr. McCartney:

Eric forwarded the attached letter to my attention. Regarding Dr. Durrani not being available to be deposed, we would like proof that 1. he was asked to participate in the deposition and 2. proof Dr. Durrani responded with a refusal to participate in the deposition. This information will be obtainable as discovery in the dec action. Of note, the dec action includes correspondence by email from Dr. Durrani as an exhibit. Additionally, please copy Debra A. Nelson and myself on future correspondences regarding Durrani cases.

Sincerely,



K. Joshua Waters

KJW/km

Encl.

CC: Debra A. Nelson

Main Office
5247 Madison Pike
Independence, KY 41051
859.363.1900 • Fax: 859.363.1444
1.866.960.HURT

5290 Madison Pike, Suite 30
Independence, KY 41051
859.534.6220
Fax: 859.960.6245

19 Broadcast Plaza
635 West 7th Street, Suite 401
Cincinnati, OH 45203
513.729.1999 • Fax: 513.381.4084

Exhibit 5: Dr. Durrani Communication with Patients Here in the U.S.

From: Christy Goldstein <cgchristy3@aol.com>
Subject: Durrani's emails
Date: February 17, 2014 at 9:03 PM
To: Chad Fuller <chad@ericdeflers.com>

On Feb 17, 2014, at 8:48 PM, Atiq Durrani <adurrani.yourspinedoctor@gmail.com> wrote:

Well if he got a CT scan to determine if it has fused or not please send me those images. Your symptoms sound very much that is instability either above or below the fusion. Could be occipital -C1 instability or below. Send me those images and if you can get a CT in flex ion and extension. As well as lateral rotation that will be great.
AD

Sent from my iPhone

On 18-Feb-2014, at 6:44 am, Christy Goldstein <cgchristy3@aol.com> wrote:

When I turn my neck to the left or right I get shooting pain, feel a crunching noise as well and see spots. The pain has been so horrible. I am not used to having this much pain this far after the surgery date. at some points I feel like I want to rip my head off, I hope you are doing well. I saw my old surgeon Dr. Sybert and he basically told me to not see him again because he won't help me.. So I am stuck in a tough spot.

I hope all is going well with you and hopefully things will get resolved for you.

All my best,

Christy

On Feb 17, 2014, at 8:38 PM, Atiq Durrani <adurrani.yourspinedoctor@gmail.com> wrote:

Christy

We fused both sides but instrumented one side only. There are reasons for that because I pack a ton of bone graft on both sides. Every ones anatomy is different. Sometimes it takes the C1 screw on both sides and sometimes it only takes on one side safely. Safety is the key as the vertebral artery is very close to the C1 screw. That is why if I can safely place both screws I place both sides and if I cannot then I won't risk your life. Fact is that one side instrumentation is plenty.

As far as fusion is concerned it is a hard place to fuse despite all efforts. One of the advantages of not instrumenting both sides is that we can pack a ton of bone graft on that side. That was done in those cases. Despite that it is still a hard place to fuse.

If you have recently got a CT scan Send me those images so I can assess the fusion myself. Then I will advise you what to do further from there.

Also what symptoms are you having?

Thanks for staying in touch,

AD

Sent from my iPhone

On 18-Feb-2014, at 3:04 am, Christy Goldstein <cgchristy3@aol.com> wrote:

So my C1-C2 did not fuse and was only tried to be fused on one side so what do I do now? Hope you are well

From: Christy Goldstein <cchristy3@aol.com>
Subject: Fwd: Hi!
Date: December 19, 2013 at 10:40 PM
To: Chad Fuller <chad@ericdetters.com>

Begin forwarded message:

From: Atiq Durrani <adurrani.yourspinedoctor@gmail.com>
Subject: Re: Hi!
Date: December 19, 2013 at 10:29:24 PM EST
To: Christy Goldstein <cchristy3@aol.com>
Reply-To: adurrani.yourspinedoctor@gmail.com

Christy

Thank you for your email. I appreciate your concern and support. Keep me in your thoughts and prayers. Thank you once again. It is greatly appreciated.

AD

On 20 Dec 2013 06:58, "Christy Goldstein" <cchristy3@aol.com> wrote:

Hi Dr. Durannil

I am so sorry all this is happening to you. Is there anything I can do to help?

All my best,

Christy Goldstein

Exhibit 6: Claims by Dr. Durrani Counsel
“efforts to communicate with him have been
fruitless.”

RONALD SCHUSTER	:	CV 2013 04 0993
DAVID SCOTT, et al	:	CV 2013 02 0519
RHONDA SCOTT, et al	:	CV 2013 07 2079
DANA SETTERS, et al	:	CV 2013 07 2090
BRENDA SHELL, et al	:	CV 2012 08 2824
DONNA SMALLWOOD, et al	:	CV 2013 04 1191
DAVID SMITH, et al	:	CV 2013 04 1200
DAVID SNIDER	:	CV 2013 04 1180
PATRICK & HAZEL STEPHENSON	:	CV 2013 10 2984
TAYLOR, KAREN & CLINTON	:	CV 2013 09 2710
LINDA KALLMEYER WARD	:	CV 2013 07 2077
LONNIE WHEELER, et al	:	CV 2013 07 2094
TROY WILDER	:	CV 2013 04 1197
CAROL WILSON	:	CV 2013 02 0523
PAULA WILSON	:	CV 2013 09 2745
ROBERT WILSON	:	CV 2013 04 1076
VICKY WILSON, et al	:	CV 2013 04 1106
BILLY WOLSING, et al	:	CV 2013 03 0964
LEAH RAY WRIGHT	:	CV 2013 07 2091
	:	
Plaintiffs,	:	
	:	
v.	:	Judge Guckenberger
	:	
ABUBAKAR ATIQ DURRANI, M.D.,	:	DEFENDANTS' ABUBAKAR ATIQ
et al.,	:	DURRANI, M.D. AND CENTER FOR
Defendants	:	ADVANCED SPINE TECHNOLOGIES,
	:	INC.'S RESPONSES TO PLAINTIFFS'
	:	FIFTH SET OF INTERROGATORIES
	:	AND REQUESTS FOR PRODUCTION
	:	OF DOCUMENTS

Come now Defendants, Abubakar Atiq Durrani, M.D. and Center for Advanced Spine Technologies, Inc., and for their response to Plaintiffs' Fifth Set of Interrogatories and Requests for Production of Documents states as follows:

INTRODUCTION

As opposing counsel and the Court are aware, Dr. Durrani has, allegedly, fled the country. Recent efforts to communicate with him have been fruitless. Furthermore,

CAST is closed and has been effectively closed for quite some time. As such, even if

584836v1

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO
CIVIL DIVISION

BRENDA SHELL,
And her husband JOHN SHELL

Plaintiffs,

vs.

ABUBAKAR ATIQ DURRANI, M.D.,
et al.,

Defendants.

: Case No. CV 2012 08 2824
:
: Judge Guckenberger
:
:
:
: DEFENDANTS, ABUBAKAR
: ATIQ DURRANI, M.D. AND
: CENTER FOR ADVANCED
: SPINE TECHNOLOGIES, INC.'S
: RESPONSES TO PLAINTIFF'S
: FIFTH SET OF
: INTERROGATORIES AND
: REQUESTS FOR PRODUCTION
: OF DOCUMENTS

Come now Defendants, Abubakar Atiq Durrani, M.D. and Center for Advanced Spine Technologies, Inc., and for their response to Plaintiffs' Fifth Set of Interrogatories and Requests for Production of Documents states as follows:

INTRODUCTION

As opposing counsel and the Court are aware, Dr. Durrani has, allegedly, fled the country. Recent efforts to communicate with him have been fruitless. Furthermore, CAST is closed and has been effectively closed for quite some time. As such, even if any of the information sought in these discovery requests is, in fact, discoverable, counsel for these Defendants cannot obtain this information from Dr. Durrani and no one is authorized to answer discovery on behalf of CAST. As such, any information provided in response to these discovery requests is based upon these Defendants' counsel's ability to determine the responses from information available to them.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all of Dr. Burkus's contracts with Medtronics referenced in his deposition. This is for every year he had one and for every issue he had a contract.

ANSWER:

See the INTRODUCTION; the information requested in this Request for Production of Documents is unknown to these answering Defendants.

2. Produce the total dollar amount of Dr. Burkus has been paid by Medtronic and all their affiliates over the course of his work with and for them. (See pg. 13 of his deposition).

ANSWER:

See the INTRODUCTION; the information requested in this Request for Production of Documents is unknown to these answering Defendants.

s/ James F. Brockman

Michael F. Lyon (0006749)
Laurie A. McCluskey (0075310)
John A. Goldberg (0009478)
James F. Brockman (0009469)

LINDHORST & DREIDAME CO., L.P.A.

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lmcccluskey@lindhorstlaw.com

jgoldberg@lindhorstlaw.com

jbrockman@lindhorstlaw.com

Attorney for Defendants, Abubakar Atiq Durrani,
M.D. and Center for Advanced Spine
Technologies, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the
following by regular U.S. Mail on this 25 day of FEB, 2014.

Debra Nelson, Esq.
Eric C. Deters & Associates
5247 Madison Pike
Independence, KY 41051
Attorney for Plaintiff

Karen A. Carroll, Esq.
Jeffrey M. Hines, Esq.
Rendigs Fry Kiely & Dennis, LLP
600 Vine Street, Suite 2650
Cincinnati, OH 45202
Attorneys for Defendants, West Chester
Hospital Medical Center and UC Health

s/ James F. Brockman

10. Order Overruling the Motion to Compel

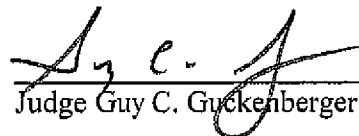
COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

(As Listed in Exhibit A),	:	Case No.
Plaintiffs	:	
	:	
-vs-	:	Judge Guckenberger
	:	
Abubakar Atiq Durrani, M.D. et al.,	:	
Defendants.	:	Denial of Motion to Compel
	:	Dr. Durrani's Deposition

Plaintiffs' amended motion to compel Dr. Durrani's deposition and/or sanctions under Civ.R. 37 is denied. Civ.R. 37(D) sanctions for a party's failure to appear at his deposition are expressly conditioned on the party "being served with a proper notice" of the deposition. Civ.R. 30(B)(1) specifies the contents of a notice to take a deposition. Plaintiffs' make no representation that Dr. Durrani was served with proper notice of his deposition and defendants, Durrani and CAST, claim no such notice has been given.

Notwithstanding the claimed unlikely presence of Dr. Durrani at a properly noticed deposition, the civil rules must be followed before the court can issue any order pursuant to Civ.R. 37(D). *Ohio Board of Clark County Com'rs v. Newberry*, 2nd Dist. Clark No. 2002-CA-15, 2002-Ohio-6087, ¶ 15.

IT IS SO ORDERED.


Judge Guy C. Guckenberger

A copy of this order has been emailed to:

charleshdeters123@gmail.com; debranelsonlaw@gmail.com;
jwaters@ericdeters.com; little@ericdeters.com; scollins@ericdeters.com;
dwilliamson@lindhorstlaw.com; mlyon@lindhorstlaw.com; jbrockman@lindhorstlaw.com;
lmcccluskey@lindhorstlaw.com; bmcpeek@lindhorstlaw.com; bpaliobeis@fbtlaw.com;
whaggerty@fbtlaw.com; Angelina.jackson@dinsmore.com; david.brittingham@dinsmore.com;
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maryjo.pullen@dinsmore.com; Marilena.Walters@Dinsmore.com;
Michael.Crites@Dinsmore.com; aphelps@rendigs.com; JPratt@Rendigs.com;
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jennifer.mitchell@dinsmore.com; stegeman.chris@gmail.com; nicklaw@fuse.net; jim@francis-law.com

11. May 30, 2014 Letter (Lyon)

LINDHORST & DREIDAME

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LEO J. BRESLIN 1928-2000

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jmlyon@lindhorstlaw.com

May 30, 2014

Stephanie L. Collins, Esq.
Eric C. Deters & Associates
635 West 47th Street, #401
Cincinnati, OH 45203

VIA REGULAR U.S. MAIL

RE: Durrani Depositions

Dear Ms. Collins:

We are in receipt of your May 27, 2014 correspondence with the attached Notice of Deposition in approximately 99 cases. We have advised Dr. Durrani of this.

He advises he will not be available.

In light of this advice, as was the case in the previously noticed deposition, we shall not insist that you go through the formality of arranging for a court reporter in Pakistan, having the reporter be there and you, personally, attend the deposition to prove he is unavailable.

If you have any questions or comments, don't hesitate to contact me.

Very truly yours,

LINDHORST & DREIDAME

/s/Michael F. Lyon

MFL/leb

cc: All Counsel of Record

589607v1